IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 306 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE C.K.BUCH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AMBALAL MATHURBHAI VAGHRI & 1 - Appellant(s)
Versus
STATE OF GUJARAT - Opponent(s)

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Appearance :
MR NS DESAI for Appellant(s) : 1 - 2.
MS DS PANDIT APP for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE C.K.BUCH

Date : 14/09/2007

ORAL JUDGMENT

1. Learned counsel appearing for the appellants Mr. N.S. Desai has informed the Court that no, there is no need to proceed with this appeal on merits because the appellant - original accused No.1 - Ambalal Mathurbhai Vaghari alias Talpada, who was sentenced R.I. for seven years and was sentenced of fine of Rs.10,000/- for the offence punishable under Section 304 Part II, has expired on 18.3.2005. His heirs are not interested in continuing the appeal and the learned counsel Mr. Desai has received written instruction by R.P.A.D. Post letter. therefore, the appeal preferred by the appellant No.1 should be treated as abated. He has tendered the letter as well as death certificate received by him along with envelope, which posed postal stamp of dated 26.4.2005. The letter was sent from Anand.

2. The respondent No.2 has already undergone the imprisonment imposed as he was otherwise entitled to set off under Section 428 of Cr.P.C. and he has instructed Mr. Desai, learned counsel not to prosecute appeal any further and therefore, he may be permitted to withdraw the appeal on behalf of the appellant No.2 - Rajubhai Ambalal Vaghri.

3. Considering the original death certificate and the letter received by Mr. Desai, learned counsel, the appeal of the appellant No.1 is set abated and the appellant No.2 is permitted to withdraw this appeal so, the

appeal of the appellant No.2 - Rajubhai Ambalal Vaghri is ordered to be dismissed as not pressed. Mr. Desai states that the amount of fine has been paid by both the appellants, therefore, no other formalities are required to be done. Thus, the appeal is ordered to be disposed, hence, disposed of accordingly. Learned A.P.P. Mr. Pandit has nothing to add in view of the above. The death certificate and letter along with envelope in which Mr. Desai had received the same are ordered to be taken on record.

4. In view of the aforesaid circumstances, present appeal qua appellant No.1 is disposed of as abated, considering the original death certificate of the appellant No.1 and the letter received by Mr. N.S. Desai, learned advocate. So far as present appeal qua the appellant No.2 is concerned, the same is dismissed as withdrawn, since the appellant No.2 has already served the sentence as ordered by the learned trial Judge.

(C.K. BUCH, J.)

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